

United States District Court

Northern District of Ohio

Office of the Clerk

Sandy Opacich
Clerk of Court

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November 2, 2021

Erin N. Poplar, Esq.
Giardini, Poplar & Mason
3rd Floor
520 Broadway Avenue
Lorain, OH 44052

In re: Lake Erie Frozen Foods Manufacturing Company v. Citigroup Inc.
Case No. 1:11-cv-1329

Dear Ms. Poplar:

It has been brought to our attention that while Judge James S. Gwin presided over the above-mentioned case, he owned stock in Citigroup Inc. His ownership of stock neither affected nor impacted his decisions in this case. However, his stock ownership would have required recusal under the Code of Conduct for United States Judges, and thus I am notifying the parties of the conflict.

Advisory Opinion 71, from the Judicial Conference Codes of Conduct Committee, provides the following guidance for addressing disqualification that is not discovered until after a judge has participated in a case:

[A] judge should disclose to the parties the facts bearing on disqualification as soon as those facts are learned, even though that may occur after entry of the decision. The parties may then determine what relief they may seek and a court (without the disqualified judge) will decide the legal consequence, if any, arising from the participation of the disqualified judge in the entered decision.

Although Advisory Opinion 71 contemplated disqualification after a Court of Appeals oral argument, the Committee explained "[s]imilar considerations would apply when a judgment was entered in a district court by a judge and it is later learned that the judge was disqualified."

With Advisory Opinion 71 in mind, you are invited to respond to the disclosure of a conflict in this case. Should you wish to respond, please submit your response to me by email at sandy_opacich@ohnd.uscourts.gov or hand delivery by 4:00 p.m. on November 17, 2021, to the Office of the Clerk, 1st Floor, 801 W. Superior Avenue, Cleveland, Ohio 44113. Your response should not be sent to Judge Gwin and copies thereof should not be sent to other counsel. Do not electronically file your response in CM/ECF. Any response will be considered by another judge of this court without the participation of Judge Gwin.

Sincerely,



Sandy Opacich
Clerk of Court

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